

Attachment-A
FILED

DEC 06 2019

U.S. DISTRICT COURT-WVN
MARTINSBURG, WV 25401

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

MAURICE PEPPERS,
plaintiff

Your full name

**FEDERAL CIVIL RIGHTS
COMPLAINT
(BIVENS ACTION)**

v.

Amy Armel and
Twenty-three Unknown
Agents of Federal
Bureau of Prisons, Defendants
Enter above the full name of defendant(s) in this action

Civil Action No.: 5:19-cv-327
(To be assigned by the Clerk of Court)

Bailey/Mazzoni/Block

I. JURISDICTION

This is a civil action brought pursuant to **Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971)**. The Court has jurisdiction over this action pursuant to Title 28 U.S.C. §§ 1331 and 2201.

II. PARTIES

In Item A below, place your full name, inmate number, place of detention, and complete mailing address in the space provided.

A. Name of Plaintiff: Maurice Peppers Inmate No.: 10587-067
Address: Federal Correctional Institution, P.O. Box 1000
Cumberland, Md. 21501-1000

In Item B below, place the full name of each defendant, his or her official position, place of employment, and address in the space provided.

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B. Name of Defendant: Amy Armel
Position: P.A.
Place of Employment: FCI Hazelton Federal Prison
Address: _____

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? Yes No

If your answer is "YES," briefly explain: As a federal employee working at the prison, Amy Armel's actions were under color of federal law.

B.1 Name of Defendant: Correctional Officer MYERS (first name unknown)
Position: Correctional Officer
Place of Employment: FCI Hazelton Federal Prison
Address: _____

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? Yes No

If your answer is "YES," briefly explain: As a federal employee Myers actions were under color of federal law.

B.2 Name of Defendant: Correctional Officer BITTINGER (first name unknown)
Position: Correctional Officer
Place of Employment: FCI Hazelton
Address: _____

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? Yes No

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If your answer is "YES," briefly explain: As a C.O., Bittingers actions were made under color of federal law.

B.3 Name of Defendant: Lieutenant BENSON (first name unknown)
Position: Lieutenant
Place of Employment: FCI Hazelton
Address: _____

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? Yes No

If your answer is "YES," briefly explain: Lieutenant Benson, as a correctional officer acted under color of federal law

B.4 Name of Defendant: Nurse KOCH (first name unknown)
Position: Assistant Health Services Administrator
Place of Employment: FCI Hazelton
Address: _____

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? Yes No

If your answer is "YES," briefly explain: same as above

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B.5 Name of Defendant: Captain E. HOWELL (first name unknown)
Position: CAPTAIN
Place of Employment: FCI Hazelton
Address: _____

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? Yes No

If your answer is "YES," briefly explain: Same as above

* See attached
for additional
Defendants

III. PLACE OF PRESENT CONFINEMENT

Name of Prison/ Institution: FCI Cumberland (Maryland)

A. Is this where the events concerning your complaint took place?
 Yes No

If you answered "NO," where did the events occur?
FCI HAZELTON (W. VIRGINIA)

B. Is there a prisoner grievance procedure in the institution where the events occurred? Yes No

C. Did you file a grievance concerning the facts relating to this complaint in the prisoner grievance procedure?
 Yes No

D. If your answer is "NO," explain why not: _____

E. If your answer is "YES," identify the administrative grievance procedure number(s) in which the claims raised in this complaint were addressed

- ADDITIONAL DEFENDANTS -

Each of the following defendants are employees of FCI Hazelton at the address indicated on the previous section of the complaint. As federal employees, all of the following listed defendants were acting under color of federal law at the time these claims occurred.

B.6 Name of Defendant: F. ENTZEL (first name unknown)
Position: WARDEN

B.7 Name of Defendant: RARDINE (first name unknown)
Position: Assistant Warden

B.8 Name of Defendant: DINGESS (first name unknown)
Position: Correctional Officer

B.9 Name of Defendant: UPPERMAN (first name unknown)
Position: Correctional Officer

B.10 Name of Defendant: POLLOCL (first name unknown)
Position: Correctional Officer

B.11 Name of Defendant: MANCK (first name unknown)
Position: Correctional Officer

B.12 Name of Defendant: BLEDSOE (first name unknown)
Position: Correctional Officer

B.13 Name of Defendant: D. Huff (first name unknown)
Position: DHO / Correctional Officer

B.14 Name of Defendant: BARR (first name unknown)
Position: Correctional Officer

B.15 Name of Defendant: MIANCK (first name unknown)
Position: Correctional Officer

B.16 Name of Defendant: SAPP (first name unknown)
Position: Correctional Officer

B.17 Name of Defendant: DAVIS (first name unknown)
Position: Correctional Officer

B.18 Name of Defendant: MARTIN (first name unknown)
Position: Correctional Officer

B.19 Name of Defendant: D. DANG (first name unknown)
Position: Correctional Officer

B.20 Name of Defendant: MILLER (first name unknown)
Position: Correctional Officer

B.21 Name of Defendant: PETROSKI (first name unknown)
Position: Correctional Officer

B.22 Name of Defendant: BROWN (first name unknown)
Position: Correctional Officer

B.23

Name of Defendant: MCINTYRE (first name unk
Position: Correctional Officer

ALL DEFENDANTS ARE SUED IN BOTH
THEIR INDIVIDUAL AND OFFICIAL CAPACITIES

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and state the result at level one, level two, and level three. **ATTACH GRIEVANCES AND RESPONSES:**

LEVEL 1	<u>C 0893</u>	-	<u>denied / rejected</u>
LEVEL 2	<u>937786 ~ RI</u>		<u>rejected</u>
LEVEL 3	<u>937786 - A3</u>		<u>rejected</u>

IV. PREVIOUS LAWSUITS AND ADMINISTRATIVE REMEDIES

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action? Yes No

B. If your answer is “YES”, describe each lawsuit in the space below. If there is more than one lawsuit, describe additional lawsuits using the same format on a separate piece of paper which you should attach and label: “IV PREVIOUS LAWSUITS”

1. Parties to this previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court: _____
(If federal court, name the district; if state court, name the county)

3. Case Number: _____

4. Basic Claim Made/Issues Raised: _____

5. Name of Judge(s) to whom case was assigned:

6. Disposition: _____
(For example, was the case dismissed?Appealed? Pending?)

7. Approximate date of filing lawsuit: _____

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8. Approximate date of disposition. Attach Copies: _____

C. Did you seek informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part B?

Yes No

D. If your answer is “YES,” briefly describe how relief was sought and the result. If your answer is “NO,” explain why administrative relief was not sought.

E. Did you exhaust available administrative remedies?

Yes No

F. If your answer is “YES,” briefly explain the steps taken and attach proof of exhaustion. If your answer is “NO,” briefly explain why administrative remedies were not exhausted.

G. If you are requesting to proceed in this action *in forma pauperis* under 28 U.S.C. § 1915, list each civil action or appeal you filed in any court of the United States while you were incarcerated or detained in any facility that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. Describe each civil action or appeal. If there is more than one civil action or appeal, describe the additional civil actions or appeals using the same format on a separate sheet of paper which you should attach and label “G. PREVIOUSLY DISMISSED ACTIONS OR APPEALS”

1. Parties to previous lawsuit: N/A

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Plaintiff(s): _____

Defendant(s): _____

2. Name and location of court and case number:

3. Grounds for dismissal: frivolous malicious
 failure to state a claim upon which relief may be granted

4. Approximate date of filing lawsuit: _____

5. Approximate date of disposition: _____

V. STATEMENT OF CLAIM

*State here, as **BRIEFLY** as possible, the facts of your case. Describe what each defendant did to violate your constitutional rights. You must include allegations of specific wrongful conduct as to EACH and EVERY defendant in the complaint. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, you must number and set forth each claim in a separate paragraph. UNRELATED CLAIMS MUST BE RAISED IN SEPARATE COMPLAINTS WITH ADDITIONAL FILING FEES. NO MORE THAN FIVE (5) TYPED OR TEN (10) NEATLY PRINTED PAGES MAY BE ATTACHED TO THIS COMPLAINT. (LR PL 3.4.4)*

CLAIM 1: Officer BLEDSOE violated my civil rights by taking my walker from me.

Supporting Facts: On 12/13/2017, Officer Bledsoe

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took my walker from me knowing that I am handicapped and require this device due to my handicapp,

CLAIM 2: Officer BITTINGER refused to replace my medically necessary walker on 12/13/2017 upon my request in violation of my civil rights. BITTINGER threatened me with assault if I chose to continue asking for any mobility device. His actions violated my civil rights,

Supporting Facts: On 12/13/2017, Officer Bittinger refused to give me my walker and threatened me with violence - spraying my face with mace - if I continued requesting my medical device, to wit, my walker or a cane.

CLAIM 3: Officer BITTINGER violated my civil rights by refusing to allow me to go to recreation and performing a retaliatory search of my inmate cell.

Supporting Facts: On 12/21/2017, Defendant BITTINGER performed a retaliatory search of my cell, confiscated my personal property and refused to return it. BITTINGER told me that his cell search was prompted by my request to go to recreation.

CLAIM 4: Officer BITTINGER violated my civil rights by forcing me to wear "paper" clothing, turning up the air conditioning, opening the door to the winter temperatures, and Subjecting me to extreme cold in retaliation for being in the segregated housing unit.

Supporting Facts: On 12/21/2017, Defendant BITTINGER took away all my clothes, replaced them with a "paper"

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uniform, adjusted the air conditioning lower, opened the tier door to the outside in the winter, and subjected me to extremely cold temperatures each time he was at work in the SHU.

CLAIM 5: Defendants Lieutenant BENSON and Captain E. HOWELL failed to intervene when I told them about the SHU, correctional officers violating my civil rights as described in this complaint and affidavit in support.

Supporting Facts: On numerous occasions during the month of December 2017, I informed Defendant's BENSON and HOWELL of the civil rights violations described in this complaint including the exposure to cold weather by the SHU officers but they refused to intervene.

VI. INJURY

Describe **BRIEFLY** and **SPECIFICALLY** how you have been injured and the exact nature of your damages.

- The defendants caused intentional infliction of emotional distress and mental anguish.
- Due to the lack of medical care I suffered continuous acute pain.

VII. RELIEF

State **BRIEFLY** and **EXACTLY** what you want the Court to do for you. *Make no legal arguments. Cite no cases or statutes.*

The court should award compensatory damages jointly and severally against each of the Defendants listed in this complaint and award such other relief as it may appear that plaintiff is entitled.

ADDITIONAL CLAIMS

CLAIM 6: Defendants BITTINGER, MYERS, and DINGESS violated my civil rights by harassment and sleep deprivation.

FACTS: During the period of time that I was housed in the Segregated Housing Unit ("SHU") from 12/21/2017 until approximately April 4, 2018, BITTINGER, MYERS, and DINGESS would Kick or Knock on my cell door each time they made rounds during their shift at the SHU which prevented me from sleeping. These officers would also yell at me to ensure that I was awake as they made their rounds.

CLAIM 7: Defendant Warden F. Enzel violated my civil rights by failing to intervene and act when put on notice to the civil rights violations described in this complaint.

FACTS: On 1/16/2018, Warden F. Enzel did a walk-through inspection of the SHU during which time I informed him of my property being stolen by the guards, the ongoing harassment, my being constantly subjected to winter temperatures by his staff, and the refusal of his officers (health services staff) to render medical attention for my knee pain. I submitted a written grievance to him yet he did nothing.

CLAIM 8: Defendant Captain HOWELL violated my civil rights by interfering with my attempt to file informal grievances about the issues detailed in this complaint and affidavit in support.

FACTS: On 1/16/2018, as I attempted to verbalize the civil rights violations I was experiencing to the Warden, Captain HOWELL interjected and stated that I was lying to the warden. Once the warden left, Captain HOWELL - whom I had also told about the ongoing civil rights violations described in this complaint - said, "You want to go over my head? Now you get nothing!" Defendant HOWELL failed to ever address or follow up on my verbal grievances to him about the above-listed civil rights violations.

CLAIM 9: Defendants BITTINGER and MYERS violated my civil rights by tampering with my food and making allegations of tampering with my food to deprive me of consuming my food.

FACTS: On 1/17/2018, Defendant BITTINGER came to my cell to deliver my meal. Smirking, he stated, "Breakfast, compliments of the Deputy Captain," referring to Defendant Captain HOWELL. BITTINGER made it clear to me on that day and every day forward that he delivered my meals that he tampered

with my meals. From 1/17/2018 until April, both MYERS and BITTINGER continued to harass my cellmate and I by stating that the food was tampered with. Due to their actions, I did not eat dozens of meals and lost nearly 50 pounds from January 17, 2018 until April when I left the SHU. (See Exhibit listing meals not eaten and corresponding dates.

CLAIM 10: Unknown Defendant obstructed my outgoing mail which violated my civil rights.

FACTS: On 1/21/2018 I sent four letters, the contents of each depicting the ongoing civil rights violations I was experiencing in the SHU at the prison. I sent one to my mother, one to my sister, one to my niece and one to a friend. None of these letters were received by the addressees. I'd asked each of these parties to help me find a way to end the abuses I was suffering in the SHU by the prison staff.

CLAIM 11: Defendant AMY ARNEL refused to provide any medical treatment for my chronic, acute knee pain in violation of my civil rights.

FACTS: On 1/18/2018, I made a request to Defendant

Nurse AMY ARMEL for medical treatment for my severely swollen Knees which were causing me extreme pain and, according to numerous orthopedic doctors, required total Knee replacement surgery. I also asked Defendant AMY ARMEL to provide me with a medically required mobility device because non-medical prison staff had taken my walker from me. Defendant ARMEL refused to provide treatment at all stating: "You are not afforded the privilege of being seen by the orthopedist while in the SHU...." She also claimed that my medical treatment was being denied based upon the reason I was placed in the SHU. I never received any mobility device or treatment for my Knees.

CLAIM 12: Defendant Nurse A.H.S.A. T. KOCH refused to provide medical treatment for my Knees and refused to provide me with a medically prescribed mobility device in violation of my civil rights.

FACTS: On 1/26/2018, I filed a grievance with Defendant T. KOCH regarding my inability to obtain medical care concerning my Knees and the refusal of the health services staff to provide me with a mobility device. In response to my grievance, Defendant KOCH stated: "You will not have a cane while in the SHU" and "I don't perform exams." In February, having received no pain medications for my Knees or

medical treatment for the same, I asked Defendant KOCH verbally why this was so. He informed me that I would not receive treatment by an orthopedist or anyone else concerning my knee problems while I was housed in the SHU at the prison.

CLAIM 13: Defendants BITTINGER and MYERS violated my civil rights by performing a retaliatory cell search of my cell due to my various complaints about them harassing me.

FACTS: Officers BITTINGER and MYERS came to my cell on 1/24/2018, handcuffed me and made verbal threats toward me because they were upset about my "snitching" to their superiors concerning my treatment by them while in the SHU. Because of my complaints, I was told by these two defendants, that I would not be allowed to go to recreation (outside my cell).

CLAIM 14: Defendant MYERS violated my civil rights by harassing me with numerous threats of violence upon my person in retaliation for my complaints to his superiors about his unlawful actions towards me.

FACTS: On 1/25/2018, Defendant MYERS threatened me by stating "If you keep talking, I'm going to slam you on your face!"

MYERS and Defendant BITTINGER continued to harass me verbally and intimidate me during the entire time I was housed in the SHU.

CLAIM 15: A conspiracy to deny me access to the Court was perpetrated by numerous correctional officers who refused to allow me to utilize the law library to work on my criminal case appeal and this civil action.

FACTS: I made a total of at least 23 requests to use the law library from 1/18/2018 to 3/1/2018 to the correctional officers listed below. These correctional officers falsified the law library log and otherwise prohibited me from utilizing the law library in an effort to prevent me from reporting my civil rights violations to the court and also to deny my access to the court. The dates of my requests and the officers concerned are as follows:

1/18/18 - Officer BARR; 1/24/18 - Officer UPPERMANN;
1/24/18 - Officer BARR; 1/27/18 - Officer MIANCK;
1/28/18 - Officer UPPERMANN; 2/9/18 - Officer SAPP;
2/10/18 - Officer DAVIS; 2/11/18 - Officer DAVIS;
2/12/18 - JANE DOE; 2/13/18 - Officer DINGESS;
2/14/18 - Officer DINGESS; 2/14/18 - Officer D.DANG;
2/14/18 - Officer UPPERMANN; 2/16/18 - Officer MARTIN;
2/16/18 - A.W. RARDINE; 2/17/18 - Officer

DAVIS; 2/18/18 - Officer MILLER; 2/22/18 - Officer PETROSKI; 2/23/18 - Officer M. BROWN; 2/23/18 - Officer POLLOCL; 2/24/18 - Officer UPPERMANN; 2/25/18 - Officer UPPERMANN; 3/1/18 - Officer MCINTYRE.

CLAIM 16: Defendant E. HOWELL failed to act when confronted with the civil rights abuses perpetrated against me by his staff in the SHU.

FACTS: On 1/29/2018, at 2:15 PM, I informed Captain E. HOWELL about the officers tampering with my food, threatening me, refusing me medical care, refusing me access to the law library, the cold weather issue, and the sleep deprivation caused by his staff. He told me, "I'll look into it," and then failed to intervene, train his staff, or correct the guilty officers.

CLAIM 17: Defendant Warden F. ENZEL failed to act when confronted with the civil rights violations described in this complaint.

FACTS: On 1/30/2018, I described all of the above listed civil rights violations that the guards perpetrated against me to Defendants F. ENZEL, E. HOWELL, and Lt. BENSON. I also gave F. ENZEL a written grievance about these ongoing issues.

Warden Enzel folded my grievance, placed it in his pocket and failed to do anything about my concerns. BENSON and E. HOWELL also failed to act. Defendant HOWELL told ENZEL that I was lying and that I had been refusing to go to the law library and recreation when offered by staff. On 2/6/2018 at 10:15 AM I once again told ENZEL and Warden RARDINE about all of the above civil rights violations. I was told that these issues would be "looked into." The issues continued unchecked until the date I left the prison.

CLAIM 18: Defendant MYERS violated my civil rights by informing the other inmates that I was, supposedly, "a snitch" and "a rat."

FACTS: Sometime after I informed the warden about what Defendant MYERS was doing to me in the SHU, MYERS started announcing to the other inmates in the SHU that I was a snitch and a rat. On at least 2 occasions I heard him yelling this on the tier so all the inmates would hear. His words could have gotten me killed.

CLAIM 19: DHO Officer D. HUFF denied me due process at my DHO hearing about allegations of my being in possession of a weapon.

FACTS: On 2/13/2018, I had a DHO hearing in front of

Defendant D. HUFF. HUFF told me that the evidence favored my innocence but he had to find me guilty "because [I] pissed someone off."

CLAIM 20: All of the Defendants in this complaint participated in a large civil rights conspiracy to deny me my civil rights because I was housed in the SHU at FCI Hazelton.

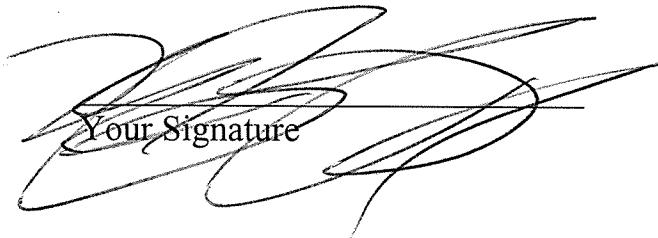
FACTS: The facts as stated in this complaint and the attached declaration in support of this complaint show that the SHU inmates at FCI HAZELTON are subjected to the indicated civil rights violations by the staff at the prison and that I was a victim of said civil rights violations during the time which I was an inmate housed in the SHU at that prison.

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DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained in the complaint is true and accurate. Title 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Executed at Cumberland, Md on 11/24/2019.
(Location) (Date)



Your Signature

A JURY TRIAL IS DEMANDED
BY PLAINTIFF, MAURICE PEPPERS